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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,522	10/30/2000	Mark Robert Sivik	7576R&	7311

27752 7590 09/06/2002

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL TECHNICAL CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER

HARDEE, JOHN R

ART UNIT	PAPER NUMBER
1751	

DATE MAILED: 09/06/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>09/699,522</b>	Applicant(s) <b>Sivik et al.</b>
Examiner <b>John R. Hardee</b>	Art Unit <b>1751</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on \_\_\_\_\_.

2a)  This action is **FINAL**. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 28-38 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 28-33 and 36-38 is/are rejected.

7)  Claim(s) 34 and 35 is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

15)  Notice of References Cited (PTO-892) 18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3 20)  Other: \_\_\_\_\_

Art Unit: 1751

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 28, 29, 32, 36 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 560,519 A2. The reference discloses hard surface cleaning compositions, especially automatic dishwashing detergent compositions comprising copolymers of dimethylamino ethyl methacrylate and acrylic acid, as well as terpolymers containing same. Addition of ethoxylated alcohol surfactant is exemplified. The weight-average molecular weight of the polymers is most preferably 1000-25,000 (p. 7, lines 23-24). Testing of the compositions is disclosed. Sodium citrate, a well known chelant, is added to the detergent compositions, as is zeolite, a well known builder. The detergent ingredients are alkaline, but not so alkaline as to exceed the recited pH limitations. Recitation of an intended use does not define claim 37 over the prior art.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1751

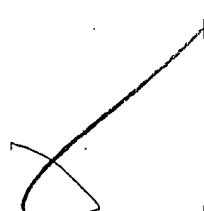
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 28-33, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 560,519 A2. The reference discloses hard surface cleaning compositions, especially automatic dishwashing detergent compositions which contain polymers comprising a) one or more monoethylenically unsaturated carboxylic acids of 3-6 carbons, b) one or more aminoacryloyl derivatives and optionally c) one or more additional monomers which can be polymerized with the



Art Unit: 1751

first two monomers (abstract). Monomer a is present at 92-30% by weight, b at 5-50% by weight and c at 3-25% (p. 3, lines 49+). Note the disclosure at the bottom of p. 4 that one or more of the monomers may be added at elevated temperature. Addition of one monomer at elevated temperature would result in a block polymer. Note also the polymers which are exemplified. Suitable anionic, nonionic and amphoteric surfactants are disclosed on p. 8, as is the addition of enzymes. The general teaching of enzymes makes obvious the addition of a protease or an amylase. While a number of the claims are anticipated, the reference differs from the claimed subject matter in that it does not disclose a composition which reads on all of applicant's claims with sufficient specificity to constitute anticipation.

It would have been obvious at the time the invention was made to make such a composition, because this reference teaches that all of the ingredients recited by applicants are suitable for inclusion in a surfactant composition. The person of ordinary skill in the surfactant art would expect the recited compositions to have properties similar to those compositions which are exemplified, absent a showing to the contrary.

6. Claims 28, 30-33, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruppert et al., US 4,579,681. The reference discloses laundry detergent compositions comprising detergents surfactant and a copolymer of N-vinyl caprolactam (col. 1, lines 55+). The copolymers have a molecular weight of about 1000-1,000,000 (col. 2, lines 18+). Suitable polymers include copolymers comprising diethylaminoethyl methacrylate (DMAEMA) (col. 2, lines 1-16). Note the suitable surfactants which are disclosed at col. 3, lines 33+. Suitable adjunct

Art Unit: 1751

materials, including enzymes, dyes, perfumes and germicides, are disclosed at col. 4, lines 60+. The general teaching of enzymes makes obvious the addition of a protease or an amylase. The reference differs from the claimed subject matter in that it does not disclose a composition which reads on all of applicant's claims with sufficient specificity to constitute anticipation.

It would have been obvious at the time the invention was made to make such a composition, because this reference teaches that all of the ingredients recited by applicants are suitable for inclusion in a surfactant composition. The person of ordinary skill in the surfactant art would expect the recited compositions to have properties similar to those compositions which are exemplified, absent a showing to the contrary.

*Allowable Subject Matter*

7. Claims 34 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record is the references summarized above. Neither of these references discloses or makes obvious the use of the polymers recited in claims 34 or 35.

9. The prior art made of record and not relied upon is of interest and is considered pertinent to applicant's disclosure.

Art Unit: 1751

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (703) 305-5599. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Dr. Yogendra Gupta, may be reached at (703) 308-4708.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.



John R. Hardee  
Primary Examiner  
September 4, 2002